IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.56 OF 2007.

SOCIEDADE DE FOMENTO IND. PVT. LTD., .. Appellant.

Versus

MARIO MIGUEL MASCARENHAS AND 13 ORS. .. Respondents.

Mr. M.S. Usgaonkar, Senior Advocate with Amira Razaq, Advocate with Ms.M.F. Noronna, Advocate for the appellant.

Mr. Rohit Kapadia, Senior Advocate with Mr. Yash Kapadia, Advocate with Mr. H. D. Naik for the respondents No. 1 to 10 & 12.

Mr. A.N.S. Nadkarni, Advocate for the respondents No.13 & 14.

with

APPEAL FROM ORDER NO.57 OF 2007.

HARDESH ORES PRIVATE LIMITED .. Appellant

Versus

MARIO MIGUEL MASCARENHAS AND 13 ORS. .. Respondents.

Mr. M.S. Usgaonkar, Senior Advocate with Amira Razaq, Advocate with Ms.M.F. Noronna, Advocate for the appellant.

Mr. Rohit Kapadia, Senior Advocate with Mr. Yash Kapadia, Advocate with Mr. H. D. Naik for the respondents No. 1 to 10 & 12.

Mr. A.N.S. Nadkarni, Advocate for the respondents No.13 & 14.

Coram :- R. S. MOHITE, J.

Date : - 12th July, 2007.

P. C. :

This is an appeal from order impugning judgment and order passed by Second Additional Civil Judge, Senior Division, Margaon refusing ad interim relief to the original plaintiff. The record indicates that on an earlier stage the same ad interim relief was refused. The matter was carried to the High Court by the original defendant by filing appeal from Order No.43/2007. The said appeal from order was disposed of in terms of minutes of order dated19.4.2007 and the said order was passed ad-invilum . By the said order, earlier order passed on 10/4/2007 was set aside and the trial court was directed to take up the application was for temporary injunction and was further directed to decide the same preferably on or before 30/9/2007. Since the mining activities cannot be carried on in the absence of a environment clearance certificate, the order further provided that copy of environment clearance certificate shall be furnished by the defendants No. 1 to 12 to the plaintiff. The original plaintiff was granted liberty to apply for ad interim order after serving proper notice of such application to all the parties.

When this matter was heard, the counsel appearing for the respondents,made a statement that the copy of environment clearance certificate will be furnished to the plaintiff immediately upon receipt of the same to enable the plaintiff to file an application for ad interim order as contemplated in clause 4 of the minutes of the order and that they will not commence any mining activity for the period of one week from the date of service of environment clearance certificate upon the plaintiff. The statement is accepted. It is further made clear that any application for ad interim order made by the plaintiff as contemplated in clause 4 of minutes of the order dated 19.4.2007, will be decided on merit without being influenced by any order passed by this Court on the making and acceptance of the statement on behalf of the defendants in this matter. It also made clear that the arrangement arrived at is without prejudice to the right and contentions of all the parties and all their contentions are kept open. It is further clarified that in case the application for ad interim injunction being heard in the trial court, is decided prior to the issuance of the environment clearance certificate, then the

respondents stand relieved of their statements. In view of acceptance of the statement as aforesaid, the appellant seeks leave to withdraw and states that he doesnot press the appeal on merits and same stands disposed off as withdrawn.

R. S. MOHITE,J.

sma